



# Shipping Container Institute

# NEWS

September -- October 2010

## SSCI NEWS

### SSCI Membership, TPC Set to Meet on October 21

The Steel Shipping Container Institute (SSCI) will conduct its Fall Membership and Technical Projects Committee (TPC) meetings October 21 at The Ritz-Carlton Grande Lakes, Orlando, Florida. The SSCI meetings are part of the Industrial Packaging Alliance of North America's (IPANA) Fall Conference that, again, in 2010, is co-located with the Reusable Industrial Packaging Association's Annual Conference. More than 200 participants have registered for the two events.

At the Membership Meeting, SSCI Chairman John Dergentis, Greif Packaging LLC, and Executive Director John A. McQuaid, will provide updates on numerous issues. At the TPC meeting, the focus will be on the evolving use of lever-locking rings on open-head shipments of hazardous materials products as well as developments in traceability and fraud proofing industrial packaging, particularly for export shipments.

On October 22, an all-day plenary session is scheduled where speakers will focus on such topics as the impact of the new health care legislation on small businesses, trends in sustainability and their impact on industrial packaging, an assessment of the mid-term elections and what those results portend in 2011 and beyond, and an update on the Pipeline & Hazardous Materials Safety Administration's (PHMSA) enhanced enforcement efforts.

In addition to the working session, scheduled lunches and receptions provide an opportunity for IPANA and RIPA members to network with colleagues and establish new contacts.

### SSCI Colleagues, Friends to Salute Ernie Beardsley's 60 Years in Industry

Friends and associates, who are members and alumni of the Steel Shipping Container Institute (SSCI), will gather in Orlando on October 20 to pay tribute to **Ernest C. Beardsley's** 60 years in the steel drum industry.

Mr. Beardsley is chairman and chief executive officer of North Coast Container Corp. and a long-serving member of the SSCI's Board of Directors. He will be recognized for his long career in the industry at a private dinner to be held in connection with the SSCI's Membership and Technical Projects Committee Meetings in Orlando which are part of the Industrial Packaging Alliance of North America's (IPANA) Fall Conference.

## INDUSTRY NEWS

### IPANA 9<sup>th</sup> Annual Meeting Set for March 13-15 in San Antonio

The Industrial Packaging Alliance of North America (IPANA) will hold its 9<sup>th</sup> Annual Meeting next March at the Marriott Riverwalk in San Antonio, Texas. The Board's decision on San Antonio followed a close, informal vote of members who were asked to provide their preference for a Texas locale or one in Arizona. This event will be held on the usual Sunday arrival, Tuesday departure on March 13-15.

Mark your calendars today!

**IPANA/SSCI 2010 Fall Conference • October 20-22 • Orlando, FL**

## Reusable Industrial Packaging Industry Sets World-wide Conference for Sept. 2011

The International Confederation of Drum Reconditioners (ICCR) has announced it will conduct the 13<sup>th</sup> International Conference on Reusable Industrial Packaging on September 7 – 10, 2011, in Osaka, Japan. A detailed announcement on the event is expected in the next few weeks.

The ICCR, along with other world-wide industrial packaging organizations, including the International Confederation of Drum Manufacturers (ICDM) and the International Confederations of Plastics Packaging Manufacturers (ICCP), had agreed in 2008 to participate in the 2<sup>nd</sup> International Conference on Industrial Packaging that was to be held in Beijing in September 2009. However, due to a number of issues related to planning as well as the global economic downturn, the Beijing event was cancelled.

Subsequently, reconditioning interests under the ICCR determined to move ahead in 2011 with their own event and informed the ICDM after that decision had been finalized. In a June 2009 letter to ICDM Chairman John Dergentis, Brian Chesworth, and ICCR Chairman explained that the group's governing body had concluded to move forward with plans for an international conference in 2011 "sponsored and managed solely by the international reconditioning industry, through ICCR."

Chesworth continued, "It is ICCR's intention to invite participation from the various international manufacturers associations as speakers and attendees, including members of ICDM, ICPP, and ICIBCA.

"This decision," Chesworth noted, "was not made in haste. After much discussion it was decided that ICCR would benefit by holding an international conference at which business, technical, and regulatory issues affecting reconditioners were the primary focus of the meeting."

ICDM Chairman Dergentis responded to the ICCR letter stating, "The reconditioning industry's determination to conduct a 2011 international conference sponsored and managed solely by your industry, through ICCR, will disappoint some firms in the U.S. that have a foot in both the industrial packaging manufacturing and reconditioning camps who have been urging closer cooperation between these parties. It will also disappoint others who believe there is much to be gained

in manufacturers and reconditioning interests jointly seeking workable solutions to common problems.

"No doubt," the ICDM letter continued, "business considerations will be a motivation to those individual members of ICDM, ICPP, and ICIBCA who may be invited to participate in the ICCR's 2011 event. As far the possible involvement of various international manufacturers' associations is concerned in either promoting or participating in this event, each organization will consider its self-interest as well as the broader interests of our industry in determining the extent of their involvement."

## PEOPLE IN THE NEWS

Con-Tech International, a container technology and supply company, has announced the promotion of **Delmy Orellana** to vice president. Previously, Ms. Orellana held the position of product manager of drum components at Con-Tech.

In her new position, she will continue her retain her present responsibilities and take on additional tasks at the firm.

## REGULATORY NEWS

### Cooperative Steel Drum Testing at LOGSA Tobyhanna Officially Dead

A recent email from Anthony Lima, Packaging Program Manager, the Office of Hazardous Materials Enforcement – Special Investigations, at the Pipeline and Hazardous Materials Safety Administration (PHMSA), definitively ended the prospects for cooperative steel drum testing at Tobyhanna involving the SSCI and the Reusable Industrial Packaging Association (RIPA).

The idea for further testing was raised by Mr. Lima earlier in the year as a means of reviewing certain laboratory practices that he observed can and should be followed so that testing results are considered consistent regardless of the testing location. His concerns had been raised after observing what he described as fundamental errors in performance testing procedures at recently-conducted Alternative Validation Testing (AVT) at separate facilities of a new steel drum manufacturer and a reconditioner.

In his email, Mr. Lima explained that PHMSA has decided to move forward with informational testing videos rather than having several small groups of

industry testing personnel visit LOGSA for two-day blocks of testing observation and laboratory best-practices discussions.

“PHMSA can reach a much broader audience through website and DVD distribution of videos,” Mr Lima noted. “The cost to professionally produce and distribute several videos about PHMSA’s testing program, LOGSA’s facility, equipment, and testing methodologies, and non-bulk and IBC testing methodologies would, ultimately, be far less expensive for PHMSA and disruptive to LOGSA and their other customers and priorities.”

Mr. Lima said that he hoped the change in PHMSA’s plans has not inconvenienced SSCI members that had expressed interest in participating. “Please remember,” he observed, “that all RIPA, SSCI, and IPANA members have a standing invitation for half-day tours of LOGSA to include demonstration testing and any discussion you would like to have with PHMSA.”

### **PHMSA to Move Ahead Administratively with SP/Approvals Fitness Determinations**

The Pipeline & Hazardous Materials Safety Administration (PHMSA) recently made it clear it will move ahead with implementation of [new procedures](#) to determine the fitness of companies applying for a Special Permit or Approval without formally seeking public input through rulemaking.

At an August 19 public meeting, the agency showcased its prospective three-tier approach in making fitness determinations and sought comment on its approach from those in attending. PHMSA’s three tier program involves a first tier review of HIP & SAFER data related to the applicant. Depending on the findings at this level, a second tier reviews may be conducted by PHMSA or the U.S. DOT modal administration with regulatory jurisdiction over the applicant. Should that review result in further concerns, an on-site inspection of the applicant by PHMSA representatives or those of the relevant modal administration would be conducted.

### **OSHA Official Tells Steelworkers Agency is Committed to Stringent Enforcement**

David Michaels, PhD, MPH, Assistant Secretary for Occupational Safety and Health, U.S. Department of

Labor, told the audience at a United Steelworkers Health, Safety and Environment Conference in Pittsburgh that OSHA is returning to basics to protect the safety and health of workers on the job. In his Oct. 6 [speech](#) to the approximately 1,000 USW members and more than 200 managers in attendance at the conference, *Michaels said that OSHA has returned to the original intent of the Occupational Safety and Health Act to place a firm focus on standards and enforcement.* (Emphasis added) He said OSHA is examining whether employers are merely concentrating on compliance, or taking steps to improve overall performance, reduce risk, and make prevention part of daily operations.

Michaels also stressed the need to expand OSHA’s enforcement powers and penalty amounts through legislative reform such as the Protecting America’s Workers Act and the Miner Safety and Health Act of 2010 now under consideration in Congress.

### **PHMSA Issues Final Rule Clarifying Certain HM-231 Ruling Provisions**

The Pipeline & Hazardous Materials Safety Administration (PHMSA) recently published in the *Federal Register* a final rule in [HM-231, Hazardous Materials: Miscellaneous Amendments](#), addressing one petition for reconsideration and four appeals submitted in response to the agency’s February 2 issuance of an earlier final rule in the same proceeding.

The latest decision, effective October, amended the agency’s February decision to: (1) revise several packaging related definitions; (2) add provisions to allow more flexibility when preparing and transmitting closure instructions, including conditions under which closure instructions may be transmitted electronically; (3) clarify a requirement for shippers to retain packaging closure instructions; and, (4) incorporate new language that allows for a practicable means of stenciling the United Nations (UN) symbol on packagings.

Importantly for the industrial packaging reconditioning/remanufacturing industry, PHMSA rescinded new language in §173.28(a) and (f), respectively, which stated that the minimum thicknesses for reuse and reconditioning of steel and plastic drums also applied to remanufactured drums. In its February decision, PHMSA had described this change as a clarification of what the agency always had meant.

In its latest decision, PHMSA noted, “We agree with the appellants that this change may be misleading. PHMSA recognizes the current HMR minimum thickness requirements apply to packagings for reuse and reconditioning, and not to remanufactured packagings. We also recognize a remanufactured packaging, regardless of thickness, must be tested to demonstrate compliance with performance requirements. This differs from the requirements for reuse and reconditioning where the packaging is not subject to performance requirements as a new design type before reuse or reconditioning.”

Regarding closure instructions, the agency modified its February final rule to revise the amount of time required for retaining packaging closure instructions to align with a packaging’s periodic retest date. It also clarified language in § 173.22(a)(4) to clearly state that additional requirements concerning closure instruction retention, including the time period required, are prescribed in § 178.2(c).

### **DOT Finalizes Texting Ban; OSHA Also Posts Warning**

U.S. Secretary of Transportation Ray LaHood recently announced a final rule to ban texting by commercial motor vehicle drivers while operating in interstate commerce, regardless of individual state regulations. The [final rule](#) was published in the September 27 *Federal Register* and is effective October 27, 2010.

Last January FMCSA had indicated that texting, although not explicitly banned, was prohibited under existing rulemaking which barred the use of equipment and accessories that decrease the safety of CMV operation.

Secretary LaHood, at the Department of Transportation’s recent second annual Distracted Driving Summit, also announced that the ban on texting for commercial drivers would be extended to include those hauling hazardous materials, addressing a loophole whereby intrastate hazmat haulers fell outside the jurisdiction of FMCSA. A separate rulemaking to ban texting by intrastate hazmat drivers is necessary because the FMCSA only has authority to ban texting by interstate carriers and drivers, while the Pipeline and Hazardous Materials Safety Administration can regulate intrastate carriers and their drivers. View PHMSA’s

intrastate ban [here](#). It also is effective October 27, 2010.

In its final rule, FMCSA clarified that the use of cell phones and electronic devices for GPS and navigational purposes were not affected by the rulemaking. However, the ban does include messaging on fleet management systems and dispatching devices, along with messaging, e-mail, and Internet usage on laptops.

The penalties outlined in the rulemaking for texting offenses are stiff. Offending drivers may face fines up to \$2,750, while carriers allowing or requiring drivers to engage in texting may face penalties up to \$11,000. The FMCSA also added texting convictions to the list of disqualifying offenses for CDL drivers.

Meanwhile, the Occupational Safety & Health Administration (OSHA), has posted on its web site a letter from David Michaels, PhD, MPH, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, reminding employers of their responsibility and legal obligation to create and maintain a safe and healthful workplace, “and that would include having a clear, unequivocal and enforced policy against the hazard of texting while driving.”

The OSHA letter continued, “Companies are in violation of the Occupational Safety and Health Act if, by policy or practice, they require texting while driving, or create incentives that encourage or condone it, or they structure work so that texting is a practical necessity for workers to carry out their job.

“To combat the threat of distracted driving,” the letter warned, “we are prepared to act quickly. When OSHA receives a credible complaint that an employer requires texting while driving or who organizes work so that texting is a practical necessity, we will investigate and where necessary issue citations and penalties to end this practice.”

### **Trucking Safety Ranking Previews**

The Federal Motor Carrier Safety Administration (FMCSA) recently began to allow individual trucking companies a preview of their safety rankings under the agency’s new enforcement and compliance program, the Comprehensive Safety Analysis (CSA) 2010. The agency said the preview gives carriers a clear assessment of their over-the-road performance through the seven CSA 2010 Behavior Analysis and Safety Improvement Categories (BASICs). The BASICs are: Unsafe Driving,

Fatigued Driving (Hours-of-Service), Driver Fitness, Controlled Substances-Alcohol, Vehicle Maintenance, Cargo-Related, and Crash Indicator.

Carriers have until December 5, 2010, the national rollout of CSA 2010, to preview their safety performance data and address any unsafe behaviors that can lead to crashes and fatalities on our roadways. For complete details on the CSA 2010 program and the safety rankings preview for carriers, visit <http://csa2010.fmcsa.dot.gov/>.

Additional information can be obtained from the FMCSA's Candice Tolliver at telephone (202) 366-9999.

## LEGISLATIVE NEWS

### Oberstar Facing Serious Challenge for Reelection

Eighteen-term Congressman James L. Oberstar, Chairman of the House Transportation & Infrastructure and chief protagonist in the ongoing scrutiny of the Pipeline & Hazardous Materials Safety Administration's Office of Hazards Materials Safety (OHMS), is facing a serious challenge in his bid for reelection in Minnesota's 8<sup>th</sup> District.

Recently the influential Minnesota Fame Bureau PAC endorsed Oberstar's opponent, Republican Chip Cravaack. Reportedly, he is the only non-incumbent to receive this endorsement from the bi-partisan agriculture group.

According to the *Duluth News Tribune*, Chip Cravaack has raised three times as much money within the 8<sup>th</sup> District as the incumbent. However, as a long-

serving incumbent, Oberstar retains a commanding fundraising lead over his opponent, thanks largely to donations from individual contributions from outside the 8<sup>th</sup> District and from political action committees. For example, the Airline Pilots Association interests

reportedly have contributed \$10,000 to Oberstar's reelection campaign.

The *New Tribune* reports that about \$1 million of the \$1.7 million Oberstar has raised for this election cycle has come from outside the district. He has received 95 of those contributions from the state of Texas, the newspaper continued.

It is not uncommon for longtime incumbents to raise a majority of their campaign money from outside their districts, noted Sheila Krumholz, Executive Director of the nonpartisan Center for Responsible Politics ([www.opensecrets.org](http://www.opensecrets.org)) which tracks campaign funding. However, she told the *News Tribune*, "On November 2, what matters is who's going to vote for him and not the money he's raised [from outside supporters]. Money can't count votes."

Rep. Oberstar is one of several long-serving Democrats heading House committees who are facing reelection challenges. In Mr. Oberstar's case, the latest polling shows him narrowly leading his opponent with both candidates polling numbers in the 40s. Incumbent House candidates whose polling tracks below 50 percent are considered to be in vulnerable.

In 2008, Rep. Oberstar won reelection by 35 percentage points over his opponent, Mike Cummins. In that election cycle, only \$23,214 of the \$1.9 million he raised came from individual donors in the 8<sup>th</sup> District, the *News Tribune* reported.

## IN MEMORIAM

**Carl Grotnes**, of Atlanta Grotnes Machine Co., died in Dunwoody, Georgia in September following a long illness. He was an engineer by training and had succeeded his father, Eugene, as president of the family business. Both father and son had been SSCI members. Details regarding remembrances for Mr. Grotnes were incomplete at the time of publication.